

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to exemption for containment of soil conditioners

The Agriculture and Land Stewardship Department hereby amends Chapter 44, “On-Site Containment of Pesticides, Fertilizers and Soil Conditioners,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 200.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 200.14.

Purpose and Summary

This rule making provides an alternative storage option for soil conditioners consisting of minimally manipulated manures, while continuing to protect the environment and natural resources.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5743C**. A public hearing was held on July 30, 2021, at 10 a.m. in the Second Floor Conference Room, Wallace State Office Building, Des Moines, Iowa.

Commenters who attended the public hearing described the benefits that this rule change would provide to farmers and residents in Iowa.

Two written comments were received. Both comments suggested altering the definition of “minimally processed” to provide additional clarity and consistency. Other comments were critical about issues unrelated to or outside the scope of this rule making.

This version differs from the Notice by improving the definitions to provide additional clarity.

Adoption of Rule Making

This rule making was adopted by the Department on August 25, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “Minimally manipulated manures” and “Minimally processed” in rule **21—44.51(200)**:

“Minimally manipulated manures.” Minimally processed, nonliquid substances composed primarily of excreta, plant remains, or mixtures of such substances.

“Minimally processed.” Processing a nonliquid substance in a manner which does not modify the nutrient value on a dry matter basis.

ITEM 2. Amend rule 21—44.56(200), introductory paragraph, as follows:

21—44.56(200) Secondary containment for nonliquid fertilizers and soil conditioners. Nonliquid fertilizer and soil conditioner stored in a totally enclosed building and a soil conditioner meeting the requirements of subrule 44.56(3) are exempt from the requirements of this rule. Unless stored in a totally enclosed building, or soil conditioners meeting the requirements under subrule 44.56(3), all nonliquid fertilizer and soil conditioner materials shall be stored within an area which drains into a secondary containment structure. The secondary containment structure shall have a volume sufficient to retain the equivalent of 12 inches of runoff from the area drained into the containment structure. This minimum storage volume may be provided within the containment structure or in auxiliary storage tanks, and may be constructed of earth, concrete, or a combination of both.

ITEM 3. Adopt the following **new** subrule 44.56(3):

44.56(3) Soil conditioners consisting entirely of minimally manipulated manures are exempt from the requirements of this rule if all of the following apply to the storage of the soil conditioner:

- a.* The soil conditioner is stored in an impermeable container.
- b.* The soil conditioner is stored in the field of application or adjacent fields of application and the amount stored does not exceed the necessary amount of nitrogen, phosphorus, or potassium to achieve optimal crop yields, as determined by average county or proven yields, on the acres in the fields of application. The total potential acres of application stored in any field shall not exceed an amount necessary for application on 160 acres.
- c.* The soil conditioner is stored in the field for a period not to exceed six months.
- d.* The soil conditioner meets all of the storage requirements for bulk dry animal nutrients under rule 21—49.7(200A).

[Filed 8/31/21, effective 11/1/21]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/22/21.